

Reparations in International Contexts

California Task Force Hearing September 24, 2022

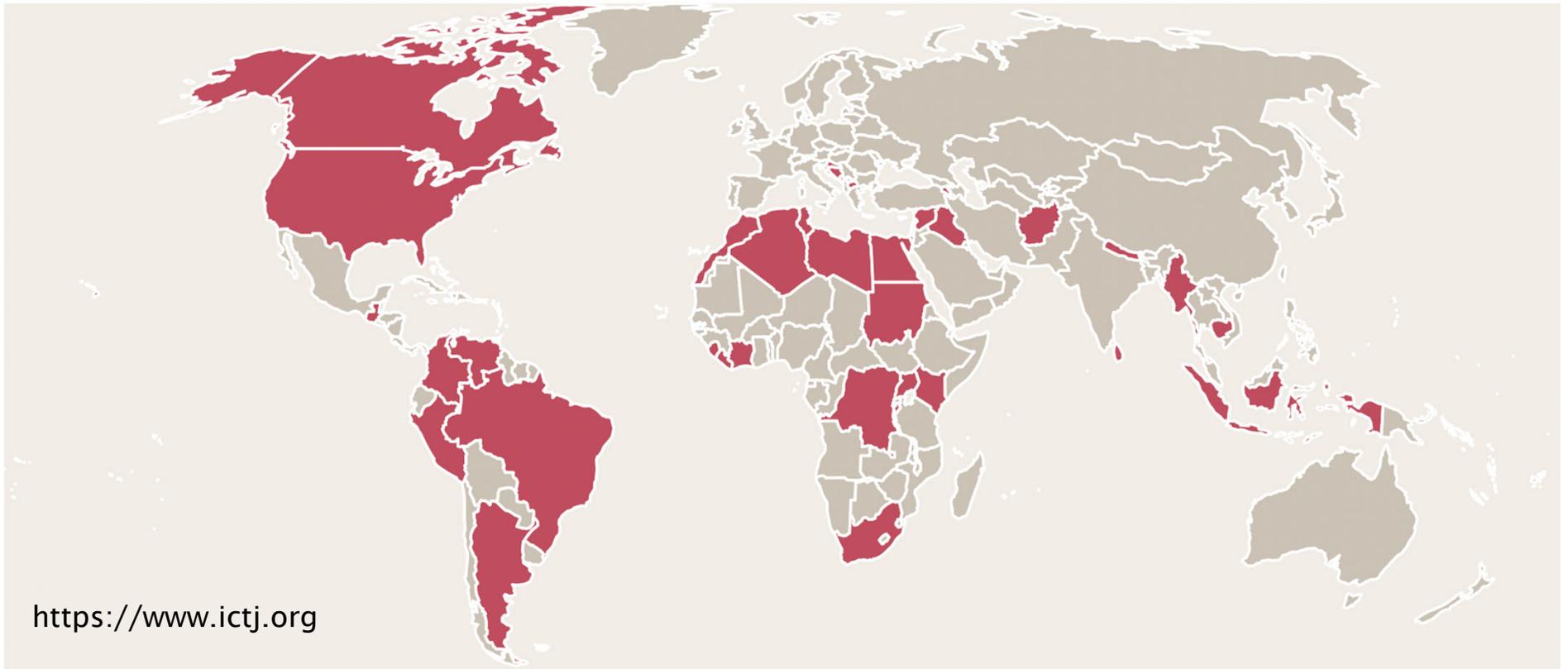
Presentation by Senior Experts

Ruben Carranza and Virginie Ladisch

International Center for Transitional Justice

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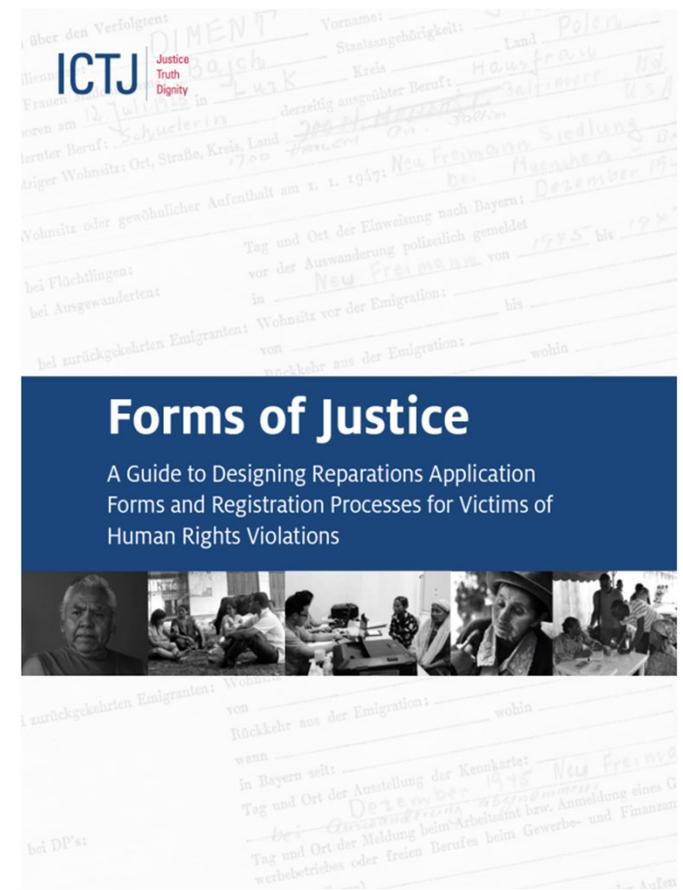
Where we work:



<https://www.ictj.org>

The concept and goals of reparations

- ❑ A right under international law
- ❑ To repair material harm
- ❑ To acknowledge victims and violations
- ❑ To address the causes and consequences of violations



The 2005 UN Basic Principles and Guidelines on forms of reparations

- ❑ Compensation
- ❑ Restitution and violations
- ❑ Rehabilitation
- ❑ Satisfaction
- ❑ Guarantees of non-repetition
- ❑ Symbolic and material

REPARATIVE JUSTICE

More Than Words

Apologies as a Form of Reparation



Reparations must be transformative

“Reparations must go **above and beyond** the immediate reasons and consequences of the crimes and violations; they must aim to address **political and structural inequalities.**”

-- Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation (2007)



Canada

2006 Settlement Agreement on Indian Residential Schools, **\$1.9 billion** for:

- Common Experience Payment (CEP) for all former students (\$20,457)
- Independent Assessment Process (IAP) for claims of sexual or serious physical abuse (\$111,265)
- Measures to support healing
- Commemorative activities
- Truth and Reconciliation Commission (TRC)

2022: **\$31.5 billion** to repair harm from Indigenous child welfare system



The South Africa Truth and Reconciliation Commission



Reparations for apartheid victims

- ❑ TRC recommended: \$3500 a year for six years
- ❑ For all victims? No. Only for murder, torture and enforced disappearances
- ❑ What did the government implement? One-time payment of \$3,000 for 21,000 TRC-registered victims
- ❑ Later: access to education and community reparations



Reparations in Chile:



\$113 million: total pensions paid between 2000 and 2008 to families of those **disappeared or unlawfully killed**

\$195 million: total pensions paid between 2005 and 2008 for **former political prisoners and torture victims**

\$1.2 billion: total compensation paid between 1996 and 2008 for **persons dismissed from employment on political grounds**

Comprehensive health care for victims (PRAIS)

Successive reparations policies.
Different groups of beneficiaries.
Various forms of reparation

- ❑ Chile: Two successive post-dictatorship truth commissions were established. The first one identified those killed or disappeared (1990). The second identified survivors of torture (2003)
- ❑ Chile: After the first truth commission, a reparations-implementing institution was created to implement reparations and identify additional eligible victims.

Germany and WWII reparations

- ❑ Series of programs for different victims of Nazi government
- ❑ Holocaust reparations 1952
- ❑ Swiss banks paid \$1.25 million
- ❑ Forced and Slave Labor reparations individual and collective



Design and implementation

- ❑ California should consider other forms of reparation, from access to education in State colleges to expunging criminal records
- ❑ Generate funding for reparations from those who profited from slavery
- ❑ Explicitly make reparations payment tax exempt
- ❑ Explore collective reparations for neighborhoods or communities that were impacted by the consequences of slavery

What can California learn from other countries' reparations experiences?

- ❑ Reparations do not have to be offered and implemented in one step.
- ❑ They can be sequenced based on their forms, beneficiaries and the availability of resources.
- ❑ International legal standards for reparations are flexible, encourage combining material and symbolic forms and prioritize acknowledgement as a goal.
- ❑ California can have more than one reparations policy and should consider successive reparations programs.

The Color of Justice: Transitional Justice and the Legacy of Slavery and Race in the United States



“Our nation has a habit of avoiding the truth. Just look at the Constitution. Look at the lengths our Founders went to avoid using the word “slavery.”

— Sherrilyn Ifill, President and Director-Counsel Emeritus, NAACP Legal Defense Fund (LDF)

Root causes: Africa and America



Ruben Carranza
@RCarranza_



Last year, we went to Annapolis Maryland [a US state where Jammeh has ill-gotten property!]. By its dock is this memorial to an ex-slave — and native Gambian. Today, I visited the once British-held island from where he & others were enslaved. It's now named [#KuntaKinteh](#) Island.



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For follow up questions contact the International Center for Transitional Justice (ICTJ):

Ruben Carranza– rcarranza@ictj.org

Virginie Ladisch– vladisch@ictj.org

www.ictj.org

